

**ENVIRONMENTAL JUSTICE—
SAFE AND AFFORDABLE DRINKING WATER**

5-14-19

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Every Californian should enjoy the same degree of protection from environmental and health hazards. Every community should be a healthy environment in which to live, work, play, and learn.

(b) No single group of people should bear a disproportionate share of the negative environmental consequences and adverse health impacts arising from industrial, governmental, or commercial operations or policies.

(c) Concentrated environmental contamination in water creates cumulative health burdens resulting in communities with higher rates of disease such as asthma, heart disease, cancer, neurological and reproductive health effects, birth defects and obesity.

(d) Despite significant improvements in environmental protection over the past several decades, millions of Californians continue to live, work, play, and go to school in unhealthy environments.

(e) California was one of the first states in the nation to put environmental justice considerations into law and defines environmental justice as the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation and enforcement of environmental laws, regulations, and policies.

(f) California law also declares that it is the established policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.

(g) Yet still more than 1,000,000 Californians do not have access to safe drinking water. In communities where the sole water supply is contaminated with substances like arsenic, nitrates, or hexavalent chromium, families are often left without safe water. The Central

Valley and Central Coast regions, where more than 90% of the communities rely on groundwater as a primary source of drinking water, are particularly at risk. More than 250,000 people in the Central Valley alone, lack access to a consistent source of safe, affordable water.

(h) The California Safe Drinking Water and Toxic Enforcement Act of 1986 lists lead, arsenic, and hexavalent chromium as substances that can cause cancer and reproductive toxicity.

(i) Established state environmental justice law and policies are only effective insofar as they result in true parity.

(j) It is the intent of the Legislature that the State of California bring true environmental justice to our state and begin to address the continuing disproportionate environmental burdens in the state by creating a fund and a funding source to provide safe drinking water in every California community, for every Californian.

SEC 2. Article 10.5 (commencing with Section 595) is added to Chapter 3 of Part 1 of Division 1 of the Food and Agricultural Code, to read:

Article 10.5. Safe Drinking Water Fee for Nondairy Confined Animal Facilities

595. For purposes of this article, the following definitions apply:

(a) "Fee" means the safe drinking water fee for nondairy confined animal facilities.

(b) "Fund" means the Safe and Affordable Drinking Water Fund established by Section 116767 of the Health and Safety Code.

(c) (1) "Nondairy confined animal facilities" means bovine operations, poultry operations, swine operations, and other livestock operations, excluding dairies, where all of the following apply:

(A) Operations are designed to exclusively corral, pen, or otherwise enclose or hold domestic livestock.

(B) Feeding is exclusively by means other than grazing.

(C) Facilities are subject to annual fees for confined animal facilities adopted in accordance with Section 13260 of the Water Code.

(2) “Nondairy confined animal facilities” does not include persons subject to Article 14.5 (commencing with Section 62215) of Chapter 2 of Part 3 of Division 21 of the Food and Agricultural Code.

596. (a) During calendar years 2022 to 2036, inclusive, each producer owning a nondairy confined animal facility shall pay annually to the secretary a safe drinking water fee. The amount of the fee paid annually to the secretary shall equal one thousand dollars (\$1,000) for a producer that owns a single nondairy confined animal facility. For a producer that owns more than one nondairy confined animal facility, the amount of the fee paid annually to the secretary shall equal one thousand dollars (\$1,000) for the first facility and seven hundred and fifty dollars (\$750) annually per each facility thereafter owned by the same producer.

(b) Notwithstanding subsection (a), the amount of the fee paid annually to the secretary by a producer that owns more than one nondairy confined animal facility shall not exceed twelve thousand dollars (\$12,000) per year.

(c) The secretary may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this article.

(d) This section shall remain in effect only until January 1, 2037, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2037, deletes or extends that date.

597. (a) Beginning with calendar year 2037, each producer owning a nondairy confined animal facility shall pay annually to the secretary a safe drinking water fee. The amount of the fee paid annually to the secretary shall equal five hundred dollars (\$500) for a producer that owns a single facility. For a producer that owns more than one nondairy confined animal facility, the amount of the fee paid annually to the secretary shall equal five hundred dollars (\$500) for the first facility and three hundred and seventy-five dollars (\$375) per each facility thereafter owned by the same producer.

(b) Notwithstanding subdivision (a), the amount of the fee paid annually to the secretary by a producer that owns more than one nondairy confined animal facility shall not exceed six thousand dollars (\$6,000) per year.

(c) This section shall become operative on January 1, 2037.

598. The secretary shall deposit all moneys received under this article into the fund.

599. Any books, papers, records, documents, or reports made to, acquired by, prepared by, or maintained by the secretary pursuant to this article that would disclose any information about finances, financial status, financial worth, composition, market share, number of facilities, or business operations of any producer or handler is confidential and shall not be disclosed to any person other than the person from whom the information was received, except pursuant to the final order of a court with jurisdiction, or as necessary for the proper determination of any proceeding before the secretary.

SEC. 3. Article 6.5 (commencing with Section 14615) is added to Chapter 5 of Division 7 of the Food and Agricultural Code, to read:

Article 6.5. Fertilizer Safe Drinking Water Fee

14615. (a) It is the intent of the Legislature to require licensees of bulk fertilizing materials, and to authorize licensees of packaged fertilizing materials, to pass the fertilizer safe drinking water fee on to the end user of the fertilizer.

(b) For purposes of this article, the following definitions apply:

(1) "Bulk fertilizing material" has the same meaning as applies to "bulk material" in Section 14517.

(2) "Fertilizing material" has the same meaning as defined in Section 14533.

(3) "Fund" means the Safe and Affordable Drinking Water Fund established by Section 116767 of the Health and Safety Code.

(4) "Noncommercial use" has the same meaning as defined in Section 14549.

(5) "Packaged" has the same meaning as defined in Section 14551.

14616. (a) In addition to the assessments provided in Section 14611, during calendar years 2020 to 2034, inclusive, a licensee whose name appears on the label of packaged

fertilizing materials labeled for noncommercial use shall pay to the secretary a fertilizer safe drinking water fee of four mills (\$0.004) per dollar of sales for all sales of fertilizing materials to be deposited into the fund.

(b) In addition to the assessments provided in Section 14611, during calendar years 2020 to 2034, inclusive, a licensee whose name appears on the label of fertilizing materials, excluding packaged fertilizing material labeled for noncommercial use, shall pay to the secretary a fertilizer safe drinking water fee of eight mills (\$0.008) per dollar of sales for all sales of fertilizing materials to be deposited into the fund.

(c) This section shall remain in effect only until January 1, 2035, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2035, deletes or extends that date.

14617. (a) In addition to the assessments provided in Section 14611, beginning calendar year 2035, a licensee whose name appears on the label of packaged fertilizing materials labeled for noncommercial use shall pay to the secretary a fertilizer safe drinking water fee of two mills (\$0.002) per dollar of sales for all sales of fertilizing materials to be deposited into the fund.

(b) In addition to the assessments provided in Section 14611, beginning calendar year 2035, a licensee whose name appears on the label of fertilizing materials, excluding packaged fertilizing material labeled for noncommercial use, shall pay to the Secretary a fertilizer safe drinking water fee of four mills (\$0.004) per dollar of sales for all sales of fertilizing materials to be deposited into the fund.

(c)(1) The secretary may adjust the fertilizer safe drinking water fee through regulation, emergency if needed, as necessary to meet but not exceed 70 percent of the anticipated funding need for nitrate in the most recent assessment of funding need adopted by the State Water Resources Control Board pursuant to subdivision (b) of Section 116769 of the Health and Safety Code, or the sum of seven million dollars (\$7,000,000), whichever is less. By October 1 of each year, the secretary shall notify all licensees of the amount of the fertilizer safe drinking water fee to be assessed in the following calendar year.

(2) An emergency regulation adopted pursuant to this subdivision shall be adopted by the secretary in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an

emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Any emergency regulations adopted by the secretary pursuant to this subdivision shall remain in effect until revised by the secretary.

(d) This section shall become operative on January 1, 2035.

14618. (a)(1) A licensee whose name appears on the label who sells or distributes bulk fertilizing materials shall charge an unlicensed purchaser the fertilizer safe drinking water fee as a charge that is separate from, and not included in, any other fee, charge, or other amount paid by the purchaser. This fee shall be included on the bill of sale as a separate line item.

(2) (A) A licensee whose name appears on the label of packaged fertilizing materials may include the fertilizer safe drinking water fee as a charge that is separate from, and not included in, any other fee, charge, or other amount paid by the purchaser or may include the charge with the assessment collected pursuant to Section 14611 as a separate line item on the bill of sale and identified as the California Regulatory and Safe Drinking Water Assessment.

(B) Notwithstanding paragraph (1), a licensee whose name appears on the label who sells or distributes bulk fertilizing material may include the fertilizer safe drinking water fee with the assessment collected pursuant to Section 14611 as a separate line item on the bill of sale and identified as the California Regulatory and Safe Drinking Water Assessment.

(b) The secretary may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this article.

(c) Beginning July 1, 2022, the secretary may retain up to 5 percent of the moneys collected pursuant to this article for reasonable costs associated with the implementation and enforcement of this article.

SEC. 4. Article 14.5 (commencing with Section 62215) is added to Chapter 2 of Part 3 of Division 21 of the Food and Agricultural Code, to read:

Article 14.5. Dairy Safe Drinking Water Fee

62215. (a) It is the intent of the Legislature that the dairy safe drinking water fee be paid for all milk produced in the state, regardless of grade.

(b) For purposes of this article, the following definitions apply:

(1) "Fee" means the dairy safe drinking water fee.

(2) "Fund" means the Safe and Affordable Drinking Water Fund established by Section 116767 of the Health and Safety Code.

(3) "Manufacturing milk" has the same meaning as defined in Section 32509.

(4) "Market milk" has the same meaning as defined in Section 32510.

(5) "Milk" includes market milk and manufacturing milk.

62216. (a) Beginning January 1, 2022, each handler, including a producer-handler, shall deduct the sum of \$0.01355 per hundredweight of milk from payments made to producers for milk, including the handler's own production, as a dairy safe drinking water fee.

(b) The secretary may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this article.

(c) This section shall remain in effect only until January 1, 2037, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2037, deletes or extends that date.

62216. (a) Each handler, including a producer-handler, shall deduct the sum of \$0.00678 per hundredweight of milk from payments made to producers for milk, including the handler's own production, as a dairy safe drinking water fee.

(b) The secretary may prescribe, adopt and enforce regulations relating to the administration and enforcement of this article.

(c) This section shall become operative on January 1, 2037.

62217. (a) A handler shall pay the dairy safe drinking water fee to the secretary on or before the 45th day following the last day of the month in which the milk was received.

(b) The secretary shall deposit all moneys received under this article into the fund.

(c) Beginning July 1, 2022, the secretary may retain up to 2 percent of the moneys collected pursuant to this article for reasonable costs of the secretary associated with the implementation and enforcement of this article.

(d) The secretary may require handlers, including cooperative associations acting as handlers, to make reports at any intervals and in any detail that he or she finds necessary for the accurate collection of the fee.

(e) For the purposes of enforcing this article, the secretary, through his or her duly authorized representatives and agents, shall have access to the records of every producer and handler. The secretary shall have at all times free and unimpeded access to any building, yard, warehouse, store, manufacturing facility, or transportation facility in which any milk or milk product is produced, bought, sold, stored, bottled, handled, or manufactured.

(f) Any books, papers, records, documents, or reports made to, acquired by, prepared by, or maintained by the secretary pursuant to this article that would disclose any information about finances, financial status, financial worth, composition, market share, or business operations of any producer or handler, excluding information that solely reflects transfers of production base and pool quota among producers, is confidential and shall not be disclosed to any person other than the person from whom the information was received, except pursuant to the final order of a court with jurisdiction, or as necessary for the proper determination of any proceeding before the secretary.

SEC. 5. Chapter 4.6 (commencing with Section 116765) is added to Part 12 of Division 104 of the Health and Safety Code, to read:

CHAPTER 4.6. SAFE AND AFFORDABLE DRINKING WATER

Article 1. Legislative Findings and Declarations 116765.

The Legislature finds and declares all of the following:

(a) Section 106.3 of the Water Code declares that it is the policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.

(b) For all public water systems, the operation and maintenance costs to supply, treat, and distribute potable water that complies with federal and state drinking water standards on a routine and consistent basis may be significant.

(c) All community water systems are currently required to set, establish, and charge a schedule of rates and fees that are sufficient to recover the operation and maintenance costs required to supply, treat, and distribute potable water that complies with federal and state drinking water standards on a routine and consistent basis.

(d) Hundreds of community water systems in the state cannot charge rates and fees that are affordable and sufficient to recover the full operation and maintenance costs required to supply, treat, and distribute potable water that complies with federal and state drinking water standards on a routine and consistent basis due to a combination of low income levels of customers, high treatment costs for contaminated water sources, and a lack of economies of scale that result in high unit costs for water service. Many schools that serve as their own regulated public water systems and have contaminated water sources cannot afford the full operation and maintenance costs required to provide water that meets federal and state drinking water standards.

(e) Nearly all state or federal drinking water project funding sources prohibit the use of that funding for operation and maintenance costs, and as a result, those systems that cannot afford required operation and maintenance costs are unable to access funding for capital projects to meet federal and state drinking water standards.

(f) As a result, hundreds of thousands of Californians, particularly those living in small disadvantaged communities, may be exposed to unsafe drinking water in their homes and schools, which impacts human health, household costs, and community economic development.

(g) A significant number of California residents rely on state small water systems and domestic wells to provide their drinking water.

(h) The state small water systems and individual domestic wells face a serious threat of contamination because they often draw their water from shallow groundwater sources and have fewer or no chemical monitoring requirements.

(i) To ensure that the right of every Californian to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes is protected, it is in the interest of the State of California to identify where Californians are at high risk of lacking reliable access to safe drinking water or are known to lack reliable access to safe drinking water, whether they rely on a public water system, state small water system, or domestic well for their potable water supply.

(j) Long-term sustainability of drinking water infrastructure and service provision is necessary to secure safe drinking water for all Californians and therefore it is in the interest of the state to discourage the proliferation of new, unsustainable public water systems and state small water systems, to prevent waste, and to encourage consolidation and service extension when feasible.

(k) It is in the interest of all Californians to establish a fund with a stable source of revenue to provide financial support, particularly for operation and maintenance, necessary to secure access to safe drinking water for all Californians, while also ensuring the long-term sustainability of drinking water service and infrastructure.

(l) It is also in the interest of all Californians that there be one or more designated sources of revenue for the fund, and that one such designated source of revenue be a statewide assessment that is collected by community water systems, as established by Article 5 (commencing with Section 116771) of this Chapter.

(m) The provision of moneys from the Safe and Affordable Drinking Water Fund to a system or individual household for capital or operation and maintenance costs does not create a vested right to that system or household for ongoing support.

Article 2. Definitions

116766. For the purposes of this chapter:

(a) "Administrator" has the same meaning as defined in Section 116686.

(b) "Board" means the State Water Resources Control Board.

- (c) "Community water system" has the same meaning as defined in Section 116275.
- (d) "Customer" means a purchaser of water from a community water system who uses the water for municipal purposes, including residential, commercial, governmental, and industrial uses, including the United States, to the extent authorized by federal law.
- (e) "Disadvantaged community" has the same meaning as defined in Section 116275.
- (f) "Domestic well" means a groundwater well used to supply water for the domestic needs of an individual residence or water systems that are not public water systems and that have no more than four service connections.
- (g) "Eligible applicant" means a public water system, including, but not limited to, a mutual water company; a public utility; a public agency, including, but not limited to, a local educational agency that owns or operates a public water system; a nonprofit organization; a federally recognized Indian tribe; a state Indian tribe listed on the Native American Heritage Commission's California Tribal Consultation List; an administrator; or a groundwater sustainability agency.
- (h) "Fund" means the Safe and Affordable Drinking Water Fund established pursuant to Section 116767.
- (i) "Fund implementation plan" means the fund implementation plan adopted pursuant to Section 116769.
- (j) "Groundwater sustainability agency" has the same meaning as defined in Section 10721 of the Water Code.
- (k) "Low-income household" means a household with an income that is less 200 percent of the federal poverty level as defined in regulations published by the federal Department of Health and Human Services.
- (l) "Nontransient noncommunity water system" has the same meaning as defined in Section 116275.
- (m) "Public water system" has the same meaning as defined in Section 116275.

(n) "Replacement water" includes, but is not limited to, bottled water, vended water, point-of-use, or point-of-entry treatment units.

(o) "Safe drinking water" has the same meaning as defined in Section 116681.

(p) "Service connection" has the same meaning as defined in Section 116275.

(q) "Small community water system" has the same meaning as defined in Section 116275.

(r) "State small water system" has the same meaning as defined in Section 116275.

(s) "Vended water" has the same meaning as defined in Section 111070.

Article 3. Safe and Affordable Drinking Water Fund

116767. The Safe and Affordable Drinking Water Fund is hereby established in the State Treasury. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are continuously appropriated to the board without regard to fiscal years, in accordance with this chapter. Moneys in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the General Fund. Moneys in the fund shall not be available for appropriation or borrowed for use for any purpose not established in this chapter, with the exception of the administrative cost reimbursement related to the collection of the Safe Drinking Water Fee for Nondairy Confined Animal Facilities, as established in Article 10.5 (commencing with Section 595) of Chapter 3 of Part 1 of Division 1 of the Food and Agricultural Code, the Fertilizer Safe Drinking Water Fee, as established in Article 6.5 (commencing with Section 14615) of Chapter 5 of Division 7 of the Food and Agricultural Code, and the Dairy Safe Drinking Water Fee, as established in Article 14.5 (commencing with Section 62215) of Chapter 2 of Part 3 of Division 21 of the Food and Agricultural Code.

116768. (a) The board shall administer the fund for the purposes of this chapter to provide a source of funding to secure access to safe drinking water for all Californians, while also ensuring the long-term sustainability of drinking water service and infrastructure. The board shall prioritize the use of this funding to assist disadvantaged communities served by public water systems and low-income households served by state

small water systems or domestic wells. The board shall consider and prioritize where appropriate use of funding for consolidation or extension of service or both. In order to maximize the use of other funding sources for capital construction projects when available, the board shall prioritize use of this funding for costs other than those related to capital construction costs, except for capital construction costs associated with consolidation and service extension to reduce the ongoing unit cost of service and to increase sustainability of drinking water infrastructure and service delivery. Beginning January 1, 2021, an expenditure from the fund shall be consistent with the annual fund implementation plan.

(b) In accordance with subdivision (a), the board shall expend moneys in the fund for grants, loans, contracts, or services to assist eligible applicants with any of the following:

(1) The provision of replacement water, as needed, to ensure immediate protection of health and safety as a short-term solution.

(2) The development, implementation, and sustainability of long-term drinking water solutions, including, but not limited to, any of the following:

(A) Technical assistance, planning, construction, repair, and operation and maintenance costs associated with replacing, blending, or treating contaminated drinking water, or with fixing failing water systems or creating and maintaining natural means and green infrastructure solutions to help provide sustainable drinking water.

i. Technical assistance and planning costs may include, but are not limited to, analyses to identify, and efforts to further, opportunities to reduce the unit cost of providing drinking water through organizational and operational efficiency improvements, system consolidation and service extension, implementation of new technology, and other options and approaches to reduce costs.

(B) Consolidating water systems, or extending drinking water services to other public water systems, domestic wells, or state small water systems.

(C) The satisfaction of outstanding long-term debt obligations of public water systems where the board determines that a system's lack of access to capital markets

renders this solution the most cost-effective for removing a financial barrier to the system's sustainable, long-term provision of drinking water.

(3) Identifying and providing outreach to Californians who are eligible to receive assistance from the fund.

(4) Testing the drinking water quality of domestic wells and state small water systems serving low-income households, prioritizing those in high-risk areas identified pursuant to Article 4 (commencing with Section 116770).

(5) The provision of services under Section 116686.

(c) Notwithstanding Section 11019 of the Government Code, the board may make advance payments, as necessary to implement the purposes of this chapter.

(d) The board may expend moneys from the fund for reasonable costs associated with administration of this Section. Beginning July 1, 2023, the board may expend no more than 5 percent of the annual revenues from the fund for reasonable costs associated with administration of this Section.

(e) The board may undertake any of the following actions to implement the fund:

(1) Provide for the deposit of both of the following moneys into the fund:

(A) Federal contributions.

(B) Voluntary contributions, gifts, grants, or bequests.

(2) Enter into agreements for contributions to the fund from the federal government, local or state agencies, and private corporations or nonprofit organizations.

(3) Provide for appropriate audit, accounting, and fiscal management services, plans, and reports relative to the fund.

(4) Direct portions of the fund to a subset of eligible applicants as required or appropriate based on funding source and consistent with the annual fund implementation plan.

(5) Direct moneys deposited into the fund described in subparagraph (B) of paragraph (1) towards a specific project, program, or study.

(6) Take additional action as may be appropriate for adequate administration and operation of the fund.

(f) In administering the fund, the board shall make reasonable efforts to ensure both of the following:

(1) That funds are used to secure the long-term sustainability of drinking water service and infrastructure, including but not limited to, requiring adequate technical, managerial, and financial capacity of eligible applicants as part of funding agreement outcomes. Funding shall be prioritized to implement consolidations and service extensions when feasible, and administrative and managerial contracts or grants entered into pursuant to Section 116686 where applicable. Funds shall not be used to delay, prevent, or avoid the consolidation or extension of service to public water systems where it is feasible and the least-cost alternative. The board may set appropriate requirements as a condition of funding, including, but not limited to, a system technical, managerial, or financial capacity audit, improvements to reduce costs and increase efficiencies, an evaluation of alternative treatment technologies, and a consolidation or service extension feasibility study. As a condition of funding, the board may require a domestic well with nitrate contamination where ongoing septic system failure may be causing or contributing to contamination of a drinking water source to conduct an investigation and project to address the septic system failure if adequate funding sources are identified and accessible.

(2) That funds are not used to subsidize large-scale nonpotable use, to the extent feasible.

(g) In administering the fund, the board shall ensure that all moneys deposited into the fund from the fertilizer safe drinking water fee established by Article 6.5 (commencing with Section 14615) of Chapter 5 of Division 7 of the Food and Agricultural Code, the dairy safe drinking water fee established by Article 14.5 (commencing with Section 62215) of Chapter 2 of Part 3 of Division 21 of the Food and Agricultural Code and the safe drinking water fee for nondairy confined animal facilities established by Article 10.5 (commencing with Section 595) of Chapter 3 of Part I of Division I of the Food and Agricultural Code shall be used to address nitrate-related contamination issues, with the exception of administrative costs related to this Chapter, and with the exception of the

administrative cost reimbursement related to the collection of the Safe Drinking Water Fee for Nondairy Confined Animal Facilities, as established in Article 10.5 (commencing with Section 595) of Chapter 3 of Part 1 of Division 1 of the Food and Agricultural Code, the Fertilizer Safe Drinking Water Fee, as established in Article 6.5 (commencing with Section 14615) of Chapter 5 of Division 7 of the Food and Agricultural Code, and the Dairy Safe Drinking Water Fee, as established in Article 14.5 (commencing with Section 62215) of Chapter 2 of Part 3 of Division 21 of the Food and Agricultural Code.

(h) At least once every 10 years, the board shall conduct a public review and assessment of the Safe and Affordable Drinking Water Fund to determine all of the following:

(1) The effectiveness of the fund in securing access to safe drinking water for all Californians, while also ensuring the long-term sustainability of drinking water service and infrastructure.

(2) If the fees deposited into the fund have been appropriately expended.

(3) If the safe and affordable drinking water fee imposed by Article 5 (commencing with Section 116771) may be reduced based on past and projected future changes to the fund.

(4) What other actions are necessary to carry out the purposes of this chapter.

(i) Neither the board nor any employee of the board may be held liable for any act that is necessary to carry out the purposes of this chapter. Nor shall the board nor any authorized person be deemed to have incurred or be required to incur any obligation to provide additional funding or undertake additional action solely as a result of having undertaken an action pursuant to this chapter.

116769. To ensure transparency and accountability the Board shall do all of the following:

(a) By July 1 of each year, publish on its internet website a report of expenditures from the fund and a summary of progress made with respect to the implementation of this chapter.

(b) By July 1 of each odd-numbered year:

(1) Adopt, after a public hearing, an assessment of funding need, based on available data, that includes all of the following:

(A) Identification of systems and populations potentially in need of assistance, including, but not limited to, all of the following:

(i) A list of systems that consistently fail to provide an adequate supply of safe drinking water. The list shall include, but is not limited to, all of the following:

(I) Any public water system that consistently fails to provide an adequate supply of safe drinking water.

(II) Any community water system that serves a disadvantaged community that must charge fees that exceed an affordability threshold established by the board in order to supply, treat, and distribute potable water that complies with federal and state drinking water standards.

(III) Any state small system that consistently fails to provide an adequate supply of safe drinking water.

(ii) A list of programs that assist, or that will assist, households supplied by a domestic well that consistently fails to provide an adequate supply of safe drinking water. This list shall include the number and approximate location of households served by each program without identifying exact addresses or other personal information.

(iii) A list of public water systems and state small water systems that may be at risk of failing to provide an adequate supply of safe drinking water.

(iv) An estimate of the number of households that are served by domestic wells or state small water systems in high risk areas identified pursuant to Article 4 (commencing with Section 116770). The estimate shall identify approximate locations of households, without identifying exact addresses or other personal information, in order to identify potential target areas for outreach and assistance programs.

(B) An analysis of anticipated funding, per contaminant, needed for known projects, services, or programs by eligible applicants, consistent with the fund implementation plan, including any funding needed for existing long-term funding commitments from the

fund. The board shall identify and consider other existing funding sources able to support any projects, services, or programs identified, including, but not limited to, local funding capacity, state or federal funding sources for capital projects, funding from responsible parties, and specialized funding sources contributing to the fund.

(C) An estimate of the funding needed for the next fiscal year based on the amount available in the fund, anticipated funding needs, other existing funding sources, and other relevant data and information.

(2)(A) Adopt, after a public hearing, a fund implementation plan and policy handbook with priorities and guidelines for expenditures of the fund.

(B) The board shall work with a multi-stakeholder advisory group that shall be open to participation by representatives of entities paying into the fund, public water systems, technical assistance providers, local agencies, nongovernmental organizations, residents served by community water systems in disadvantaged communities, state small water systems, and domestic wells, and the public, to establish priorities and guidelines for the fund implementation plan and policy handbook.

(C) The adoption of a fund implementation plan and policy handbook and the implementation of the fund pursuant to the policy handbook are not subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(D) The fund implementation plan and policy handbook shall contain a funding strategy for addressing the public health impacts from failing domestic wells and state small water systems and their long-term sustainability.

(E) This article does not expand any obligation of the state to provide resources for the provisions of this article or to require the expenditure of additional resources beyond the amount of revenue collected in the fund.

Article 4. Information on High Risk Areas

116770. (a)(1) By January 1, 2021, the board, in consultation with local health officers and other relevant stakeholders, shall use available data to make available a map of aquifers that are at high risk of containing contaminants and that exceed primary federal and state drinking water standards that are used or likely to be used as a source of

drinking water by state small water systems or domestic wells. The board shall update the map at least annually based on any newly available data.

(2) The board shall make the map of high risk areas, as well as the data used to make the map, publicly accessible on its Internet Web site in a manner that does not identify exact addresses or other personal information and that complies with the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The board shall notify local health officers and county planning agencies of high risk areas within their jurisdictions.

(b)(1) By January 1, 2021, a local health officer or other relevant local agency shall provide to the board all results of, and data associated with, water quality testing performed by a laboratory that has accreditation or certification pursuant to Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101 of the Health and Safety Code for a state small water system or domestic well that was collected after January 1, 2015, and that is in the possession of the local health officer or other relevant local agency.

(2) By January 1, 2022, and by January 1 of each year thereafter, all results of, and data associated with, water quality testing performed by a laboratory that has accreditation or certification pursuant to Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101 of the Health and Safety Code for a state small water system or domestic well that is submitted to a local health officer or other relevant local agency shall also be submitted directly to the board in electronic format.

(c) A map of high-risk areas developed pursuant to this article is not subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

Article 5. Safe and Affordable Drinking Water Fee

116771. (a)(1) Beginning July 1, 2020, and until June 30, 2022, except as provided in subdivisions (d) and (e), there is hereby imposed a safe and affordable drinking water fee for the purposes authorized in this chapter on each customer of a community water system as follows:

(A) For a customer with a water meter that is less than or equal to one inch in size, the fee shall be one dollar (\$1) per month.

(B) For a customer with a water meter that is greater than one inch and less than or equal to two inches in size, the fee shall be four dollars (\$4) per month.

(C) For a customer with a water meter that is greater than two inches and less than or equal to four inches in size, the fee shall be six dollars (\$6) per month.

(D) For a customer with a water meter that is greater than four inches in size, the fee shall be ten dollars (\$10) per month.

(E) For a customer without a water meter, the fee shall be one dollar (\$1) per month.

(F) For a customer that has multiple meters serving a single address, the total fees shall not exceed ten dollars (\$10) per month.

(2)(A) A customer that self-certifies under penalty of perjury to the community water system collecting the fee that he or she meets either of the following criteria shall be exempt from the payment of the fee:

(i) The customer's household income is equal to or less than 200 percent of the federal poverty level as defined in regulations published by the federal Department of Health and Human Services.

(ii) The customer operates a deed-restricted multifamily housing development that is required to provide housing exclusively to tenants with household incomes equal to or less than 80 percent of the area median household income.

(B) A community water system shall not be held criminally or civilly liable for failing to collect fees from customers who claim a self-certified exemption or for collecting fees from customers who could claim a self-certified exemption but do not provide adequate or timely notice to the community water system that he or she meets a criterion to be exempt.

(3)(A) A customer that is already enrolled in a program offered by a community water system that is designed specifically to reduce the cost of water service incurred by customers who meet established income guidelines is exempt from the payment of the fee.

(B) A connection or meter that is used exclusively for fire flow or uses nonpotable water, including, but not limited to, recycled water, is exempt from the fee.

(b)(1)(A) Beginning July 1, 2022, except as provided in subdivisions (d) and (e) and Section 116772, there is hereby imposed a safe and affordable drinking water fee on each customer according to a fee schedule established by the board for the purposes of the Safe and Affordable Drinking Water Fund.

(B) Notwithstanding any other provision of this section, the fee schedule shall not exceed the amounts established in paragraph (1) of subdivision (a).

(C) The board shall review and revise the fee schedule each fiscal year as necessary to not exceed the anticipated funding need in the most recent assessment of funding need identified by the board in the most recent assessment of funding need pursuant to subdivision (b) of 116769.

(D)(i) The fee schedule shall exempt any connection or meter that is used exclusively for fire flow or utilizes nonpotable water, including, but not limited to, recycled water.

(ii) By July 1, 2022, the board, in consultation with the Public Utilities Commission, shall adopt regulations to exempt households with incomes equal to or less than 200 percent of the federal poverty level from the fee established in the fee schedule pursuant to this subdivision. The Public Utilities Commission shall provide consultation, as well as relevant data, from the California Alternate Rates for Energy or CARE program established pursuant to Section 739.1 of the Public Utilities Code and from the water utility low-income rate payer assistance programs developed pursuant to Section 739.8 of the Public Utilities Code to the board to aid in development and implementation of the regulations for exemption pursuant to this clause.

(2)(A) Beginning July 1, 2024, the fee schedule shall be set at an amount that does not result in the total uncommitted amount in the fund exceeding two times the anticipated funding need in the most recent assessment of funding need.

(B) Notwithstanding any other provision of this section, the fee schedule shall not exceed the amounts established in paragraph (1) of subdivision (a).

(C) For purposes of this paragraph, "total uncommitted amount in the fund" does not include moneys in the fund from the fertilizer safe drinking water fee established by Article 6.5 (commencing with Section 14615) of Chapter 5 of Division 7 of the Food and Agricultural Code until January 1, 2033, and, until January 1, 2035, does not include moneys in the fund from the dairy safe drinking water fee established by Article 14.5 (commencing with Section 62215) of Chapter 2 of Part 3 of Division 21 of the Food and Agricultural Code or the safe drinking water fee for nondairy confined animal facilities established by Article 10.5 (commencing with Section 595) of Chapter 3 of Part I of Division I of the Food and Agricultural Code.

(c) A community water system shall collect the fee imposed by subdivisions (a) and (b) from each of its customers and may retain an amount, as approved by the board, as reimbursement for the reasonable costs incurred by the public water system associated with the collection of the fee. Until July 1, 2022, the amount retained by a community water system as reimbursement shall not exceed 4 percent of the amount collected and beginning July 1, 2022, the amount retained as reimbursement shall not exceed 2 percent of the amount collected. For small community water systems, reasonable community water system administrative cost reimbursement shall not exceed fifteen hundred dollars (\$1,500) or 10 percent of the total revenue collected, whichever is greater. The community water system shall remit the remainder to the board on an annual schedule.

(d) (1) A community water system with fewer than 200 service connections and its customers shall be exempt from the requirements of this section. The board may approve an exemption for a small community water system with 200 or more service connections and its customers from the requirements of this section if the board, upon request by the small community water system for review by the board, finds that the amount required to be remitted to the board pursuant to this section would be de minimis.

(2) For the purposes of this section, de minimis is defined as those contributions to the fund that, considering the proportion of total service connections which are likely to be exempt pursuant to section 116771(a)(2)(A), as well as the administrative cost of collecting and remitting the fee, are deemed by the board to make collection and remittance of the fee impractical.

(3) The process by which a small community water system may request an exemption shall be determined by the board.

(e) Notwithstanding any other provision of this article, a fee shall not be imposed pursuant to this article on a person or entity that is itself a community water system if that community water system is purchasing water from another community water system to supply its own customers that are themselves being assessed the fee.

(f) All moneys remitted to the board under this article shall be deposited in the Safe and Affordable Drinking Water Fund.

116772. (a) A community water system may apply to the board to authorize the community water system to use an alternative method to calculate the amount owed by each customer for the charge imposed by Section 116771 by submitting an application, in a form prescribed by the board, that demonstrates both of the following:

(1) That the method required by statute, regulation, or fee schedule adopted by the board would be impractical for the community water system to collect.

(2) That the method proposed by the community water system would provide a level of total revenue equivalent to the revenue the community water system would transmit to the board pursuant to the applicable fee schedule and that the method is consistent with the fee restrictions in this article, including, but not limited to, amount maximums and exemptions.

(b) The board shall review any application submitted pursuant to subdivision (a) to determine if the proposed alternative is consistent with this article. If the board denies the application, that denial shall be in writing and shall not be reviewable. If the board approves the application, the community water system may use the alternative method for an amount of time prescribed by the board, not to exceed five years.

(c) There is not a limit on the number of applications the board may approve pursuant to this section to establish or renew an alternative method of fee calculation.

116773. (a) The board, in consultation with the California Department of Tax and Fee Administration, shall administer and collect the fees imposed by this article in accordance with the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code).

(b) For purposes of administration of the fee imposed by this article, the following references in the Fee Collection Procedures Law shall have the following meanings:

(1) "Board" or "State Board of Equalization" means the State Water Resources Control Board.

(2) "Fee" means the safe and affordable drinking water fee imposed pursuant to this article.

(3) "Feepayer" means a customer liable to pay the fee.

(c) The board, in consultation with the California Department of Tax and Fee Administration, may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this article, including, but not limited to, collections, reporting, refunds, and appeals.

(d) The initial regulations adopted by the board to implement this article shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and shall not rely on the statutory declaration of emergency in subdivision (e).

(e) Except as provided in subdivision (d), the regulations adopted pursuant to this section, any amendment to those regulations, or subsequent adjustments to the annual fees or adoption of fee schedule, shall be adopted by the board as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Any emergency regulations adopted by the board, or adjustments to the annual fees made by the board pursuant to this section, shall remain in effect until revised by the board.

116774. The board may expend moneys from the fund for reasonable costs associated with administration of Section 116769 of Article 3, Article 4, and Article 5. Beginning July 1, 2023, the board may expend no more than 3 percent of the annual revenues from the fund for reasonable costs of administering Section 116769 of Article 3, Article 4, and Article 5.

SEC. 6. Section 13050 of the Water Code is amended to read:

13050. As used in this division:

- (a) "State board" means the State Water Resources Control Board.
- (b) "Regional board" means any California regional water quality control board for a region as specified in Section 13200.
- (c) "Person" includes any city, county, district, the state, and the United States, to the extent authorized by federal law.
- (d) "Waste" includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal.
- (e) "Waters of the state means any surface water or groundwater, including saline waters, within the boundaries of the state.
- (f) "Beneficial uses" of the waters of the state that may be protected against quality degradation include, but are not limited to, domestic, municipal, agricultural, and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves.
- (g) "Quality of the water" refers to chemical, physical, biological, bacteriological, radiological, and other properties and characteristics of water which affect its use.
- (h) "Water quality objectives" means the limits or levels of water quality constituents or characteristics which are established for the reasonable protection of beneficial uses of water or the prevention of nuisance within a specific area.
- (i) "Water quality control" means the regulation of any activity or factor which may affect the quality of the waters of the state and includes the prevention and correction of water pollution and nuisance.
- (j) "Water quality control plan" consists of a designation or establishment for the waters within a specified area of all of the following:

(1) Beneficial uses to be protected.

(2) Water quality objectives.

(3) A program of implementation needed for achieving water quality objectives.

(k) "Contamination" means an impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. "Contamination" includes any equivalent effect resulting from the disposal of waste, whether or not waters of the state are affected.

(l) "Pollution" means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following:

(A) The waters for beneficial uses.

(B) Facilities which serve these beneficial uses.

(2) "Pollution" may include "contamination."

(m) "Nuisance" means anything which meets all of the following requirements:

(1) Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

(2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

(3) Occurs during, or as a result of, the treatment or disposal of wastes.

(n) "Recycled water" means water which, as a result of treatment of waste, is suitable for a direct beneficial use or a controlled use that would not otherwise occur and is therefore considered a valuable resource.

(o) "Citizen or domiciliary" of the state includes a foreign corporation having substantial business contacts in the state or which is subject to service of process in this state.

(p)(1) "Hazardous substance" means either of the following:

(A) For discharge to surface waters, any substance determined to be a hazardous substance pursuant to Section 311(b)(2) of the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.).

(B) For discharge to groundwater, any substance listed as a hazardous waste or hazardous material pursuant to Section 25140 of the Health and Safety Code, without regard to whether the substance is intended to be used, reused, or discarded, except that "hazardous substance" does not include any substance excluded from Section 311 (b)(2) of the Federal Water Pollution Control Act because it is within the scope of Section 311(a)(1) of that act.

(2) "Hazardous substance" does not include any of the following:

(A) Nontoxic, nonflammable, and noncorrosive stormwater runoff drained from underground vaults, chambers, or manholes into gutters or storm sewers.

(B) Any pesticide which is applied for agricultural purposes or is applied in accordance with a cooperative agreement authorized by Section 116180 of the Health and Safety Code, and is not discharged accidentally or for purposes of disposal, the application of which is in compliance with all applicable state and federal laws and regulations.

(C) Any discharge to surface water of a quantity less than a reportable quantity as determined by regulations issued pursuant to Section 311(b)(4) of the Federal Water Pollution Control Act.

(D) Any discharge to land which results, or probably will result, in a discharge to groundwater if the amount of the discharge to land is less than a reportable quantity, as determined by regulations adopted pursuant Section 13271, for substances listed as hazardous pursuant to Section 25140 of the Health and Safety Code. No discharge shall be deemed a discharge of a reportable quantity until regulations set a reportable quantity for the substance discharged.

(q)(1) "Mining waste" means all solid, semisolid, and liquid waste materials from the extraction, beneficiation, and processing of ores and minerals. Mining waste includes, but is not limited to, soil, waste rock, and overburden, as defined in Section 2732 of the Public Resources Code, and tailings, slag, and other processed waste materials, including cementitious materials that are managed at the cement manufacturing facility where the materials were generated.

(2) For the purposes of this subdivision, "cementitious material" means cement, cement kiln dust, clinker, and clinker dust.

(r) "Master recycling permit" means a permit issued to a supplier or a distributor, or both, of recycled water, that includes waste discharge requirements prescribed pursuant to Section 13263 and water recycling requirements prescribed pursuant to Section 13523.1.

(s)(1) "Agricultural operation" means either of the following:

(A) A discharger that satisfies both of the following conditions:

(i) The discharger is an owner, operator, or both, of land that is irrigated to produce crops or pasture for commercial purposes or a nursery.

(ii) The discharger is enrolled or named in an irrigated lands regulatory program order adopted by the state board or a regional board pursuant to Section 13263 or 13269.

(B) A discharger that satisfies both of the following conditions:

(i) The discharger is an owner, operator, or both of a facility that is used for the raising or harvesting of livestock.

(ii) The discharger is enrolled or named in an order adopted by the state board or a regional board pursuant to Section 13263 or 13269 that regulates the discharges of waste from a facility identified in clause (i) to protect ground and surface water.

(2) "Agricultural operation" does not include any of the following:

(A) An off-farm facility that processes crops or livestock.

(B) An off-farm facility that manufacturers, synthesizes, stores, or processes fertilizer.

(C) Any portions of land or activities occurring on those portions of land that are not covered by an order adopted by the state board or a regional board identified in clause (ii) of subparagraph (A) or clause (ii) of subparagraph (B) of paragraph (1).

SEC. 7.

Article 4.5 (commencing with Section 13278) is added to Chapter 4 of Division 7 of the Water Code, to read:

Article 4.5. Discharges of Nitrate to Groundwater from Agricultural Operations

13278. (a) For the purposes of this article, the Legislature finds all of the following:

(1) Implementation of currently known best management practices for some crops under some circumstances can reduce but not always completely prevent nitrogen in organic and synthetic fertilizers that transform to nitrate from reaching groundwater at concentrations above the water quality objectives established pursuant to this division.

(2) It is acknowledged that discharges of nitrate from agricultural operations could reach groundwater and could cause or contribute to exceedances of drinking water standards for nitrate, and could cause conditions of pollution of or nuisance in those waters as defined and applied in accordance with this division, or both.

(3) Nitrate pollution of groundwater impacts drinking water sources for hundreds of thousands of Californians and it is necessary to protect current and future drinking water users from the impacts of nitrate pollution.

(4) Despite progress in controlling discharges of nitrogen that lead to nitrate formation, some groundwater sources of drinking water will continue to be adversely impacted by nitrate and it is important to have in place a program for mitigating these impacts.

(5) The regional boards will continue to regulate discharges to reduce nitrogen loading and protect beneficial uses of water and groundwater basins; the state board, regional boards, and courts will ensure compliance with those orders; and dischargers will pay for

mitigation of nitrate pollution by funding projects that provide both immediate and long-term drinking water solutions for affected communities and affected domestic wells.

(b) The Legislature declares its intent in establishing this article to limit certain enforcement actions that a regional board or the state board could otherwise initiate during a 15-year period against an agricultural operation that meets specified requirements, while maintaining the overall framework of this division to protect beneficial uses, implement water quality objectives in waters of the state, and regulate activities and factors that affect water quality to attain the highest water quality that is reasonable.

13278.1. (a) An agricultural operation shall not be subject to enforcement undertaken or initiated by the state board or a regional board, under Chapter 5 (commencing with Section 13300), for causing or contributing to an exceedance of a water quality objective for nitrate in groundwater or for causing or contributing to a condition of pollution or nuisance for nitrate in groundwater if an agricultural operation that discharges or threatens to discharge, or has discharged or previously threatened to discharge, nitrate to groundwater meets all of the following requirements:

(1) The agricultural operation is in compliance with all applicable provisions prescribed by a regional board or the state board in an order adopted pursuant to Section 13263 or 13269, including, but not limited to, the following:

(A) Requirements to implement best practicable treatment or control.

(B) Requirements to implement best efforts.

(C) Monitoring and reporting requirements.

(D) Applicable timelines.

(2) The agricultural operation is in compliance with an applicable program of implementation for achieving groundwater quality objectives for nitrate that is part of an applicable water quality control plan adopted by the state board or a regional board pursuant to Article 3 (commencing with Section 13240).

(3) The requirement contained in paragraph (1) excludes any provision contained in an order adopted under Section 13263 or 13269 that prohibits in general terms a discharge from causing or contributing, or threatening to cause or contribute, to an exceedance of a water quality objective for nitrate in groundwater or a condition of pollution or nuisance for nitrate in groundwater.

(b)(1) An agricultural operation is not in compliance with the requirement in paragraph (1) of subdivision (a) if the agricultural operation has been subject to an enforcement order under Chapter 5 (commencing with Section 13300) within the preceding 12 months for violation of an order adopted under Section 13263 or 13269 authorizing discharges from agricultural operations.

(2) Paragraph (1) does not apply to an enforcement order issued after January 1, 2017, and before January 1, 2020, inclusive, alleging that a discharge from an agricultural operation caused or contributed, or threatened to cause or contribute, to an exceedance of a water quality objective for nitrate in groundwater, conditions of pollution or nuisance for nitrate in groundwater, or both.

(3) A water replacement effort undertaken pursuant to an enforcement order described in this subdivision or pursuant to a settlement agreement shall continue until January 1, 2021, or until the date that the affected community receives funding for replacement water pursuant to Section 116768 of the Health and Safety Code, whichever date is earlier.

(c) Except as otherwise provided in subdivision (d), both of the following apply to a discharge of nitrogen to groundwater by an agricultural operation that occurs when the discharger is in compliance with the requirements of paragraph (1) of subdivision (a):

(1) The discharge of nitrogen to groundwater shall not be admissible in a future enforcement action against the agricultural operation by the state board or a regional board, pursuant to Chapter 5 (commencing with Section 13300), to support a claim that the agricultural operation is causing or contributing, or threatening to cause or contribute, to an exceedance of a water quality objective for nitrate in groundwater or a condition of pollution or nuisance for nitrate in groundwater.

(2) The discharge of nitrogen to groundwater shall not be considered by the state board or a regional board to apportion responsibility and shall not be used by any person to diminish responsibility in any enforcement initiated pursuant to Chapter 5 (commencing with Section 13300) with respect to discharges of nitrogen, regardless of source, that did

not occur in compliance with the mitigation requirements of paragraph (1) of subdivision (a).

(d) Nothing in this section alters the state board's or a regional board's authority to do both of the following:

(1) To require or conduct investigations, to require reports on or to establish other requirements for best practicable treatment or control or best efforts, or to require monitoring and reporting requirements to protect water quality.

(2) To take or initiate enforcement action pursuant to Chapter 5.5 (commencing with Section 13370), without regard to whether the agricultural operation met the requirements of paragraph (1) of subdivision (a) at any time.

(e) This section shall not be deemed to change or alter a water quality objective that is part of a water quality control plan adopted by the state board or a regional board pursuant to Article 3 (commencing with Section 13240).

(f) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.

13278.2. (a) An agricultural operation shall not be subject to enforcement undertaken or initiated by the state board or a regional board, under Section 13304, for creating or threatening to create a condition of pollution or nuisance for nitrate in groundwater if an agricultural operation that discharges or threatens to discharge, or has discharged or previously threatened to discharge, nitrate to groundwater meets all of the following requirements:

(1) The agricultural operation is in compliance with all applicable provisions prescribed by a regional board or the state board in an order adopted pursuant to Section 13263 or 13269, including, but not limited to, the following:

(A) Requirements to implement best practicable treatment or control.

(B) Requirements to implement best efforts.

(C) Monitoring and reporting requirements.

(D) Applicable timelines.

(2) The agricultural operation is in compliance with an applicable program of implementation for achieving groundwater quality objectives for nitrate that is part of an applicable water quality control plan adopted by the state board or a regional board pursuant to Article 3 (commencing with Section 13240).

(3) The requirement contained in paragraph (1) excludes any provision contained in an order adopted under Section 13263 or 13269 that prohibits in general terms a discharge from causing or contributing, or threatening to cause or contribute, to an exceedance of a water quality objective for nitrate in groundwater or a condition of pollution or nuisance for nitrate in groundwater.

(b) An agricultural operation is not in compliance with the mitigation requirement in paragraph (1) of subdivision (a) if the agricultural operation has been subject to an enforcement order under Chapter 5 (commencing with Section 13330) within the preceding 12 months for violation of an order adopted under Section 13263 or 13269 authorizing discharges from agricultural operations.

(c) Except as otherwise provided in subdivision (d), both of the following apply to a discharge of nitrogen to groundwater by an agricultural operation that occurs when the discharger is in compliance with the requirements of paragraph (1) of subdivision (a):

(1) The discharge of nitrogen to groundwater shall not be admissible in a future enforcement action against the agricultural operation by the state board or a regional board, pursuant to Section 13304 to support a claim that the agricultural operation is causing or contributing, or threatening to cause or contribute, to an exceedance of a water quality objective for nitrate in groundwater or a condition of pollution or nuisance for nitrate in groundwater.

(2) The discharge of nitrogen to groundwater shall not be considered by the state board or a regional board to apportion responsibility and shall not be used by any person to diminish responsibility in any enforcement action initiated pursuant to Section 13304 with respect to discharges of nitrogen to groundwater, regardless of source, that did not occur in compliance with the requirements of paragraph (1) of subdivision (a).

(d) Nothing in this section alters the state board's or a regional board's authority to do both of the following:

(1) To require or conduct investigations, to require reports on or to establish other requirements for best practicable treatment or control or best efforts, or to require monitoring and reporting requirements to protect water quality.

(2) To take or initiate enforcement action pursuant to Chapter 5.5 (commencing with Section 13370), without regard to whether the agricultural operation met the requirements of paragraph (1) of subdivision (a) at any time.

(e) This section shall not be deemed to change or alter a water quality objective that is part of a water quality control plan adopted by the state board or a regional board pursuant to Article 3 (commencing with Section 13240).

(f)(1) This section shall become operative on January 1, 2030.

(2) This section shall remain in effect only until January 1, 2035, and as of that date is repealed.

13278.3. By January 1, 2029, the state board shall conduct a public review of regulatory and basin plan amendment implementation programs to evaluate progress toward achieving water quality objectives with respect to nitrate in groundwater and assess compliance with adopted timelines, monitoring requirements, and implementation of best practicable treatment or control.

13278.4. Nothing in this article limits the liability of a discharger under any other law, including, but not limited to, Part 3 (commencing with Section 3479) of Division 4 of the Civil Code.

SEC. 8.

Section 53082.6 is added to the Government Code, to read:

A local agency may serve as an administrator for the purposes of Section 116686 of the Health and Safety Code.

SEC. 9.

Section 8388 is added to the Public Utilities Code, as follows:

A privately owned public utility may serve as an administrator for the purposes of Section 116686 of the Health and Safety Code.

SEC 10.

Section 100827 of the Health and Safety Code is amended to read:

100827 **(a)** A laboratory accredited by the ~~department~~ **state board** shall report, in a timely fashion and in accordance with the request for analysis, the full and complete results of all detected contaminants and pollutants to the person or entity that submitted the material for testing. The ~~department~~ **state board** may adopt regulations to establish reporting requirements for this section.

(b) A laboratory accredited by the state board shall report to the state board results of analysis of drinking water that it conducted in the form or format and at the intervals required by the state board.

SEC 11.

Section 116275 of the Health and Safety Code is amend to read:

As used in this chapter:

(a) “Contaminant” means any physical, chemical, biological, or radiological substance or matter in water.

(b) “Department” means the state board.

(c) “Primary drinking water standards” means:

(1) Maximum levels of contaminants that, in the judgment of the state board, may have an adverse effect on the health of persons.

(2) Specific treatment techniques adopted by the state board in lieu of maximum contaminant levels pursuant to subdivision (j) of Section 116365.

(3) The monitoring and reporting requirements as specified in regulations adopted by the state board that pertain to maximum contaminant levels.

(d) “Secondary drinking water standards” means standards that specify maximum contaminant levels that, in the judgment of the state board, are necessary to protect the public welfare. Secondary drinking water standards may apply to any contaminant in drinking water that may adversely affect the odor or appearance of the water and may cause a substantial number of persons served by the public water system to discontinue its use, or that may otherwise adversely affect the public welfare. Regulations establishing secondary drinking water standards may vary according to geographic and other circumstances and may apply to any contaminant in drinking water that adversely affects the taste, odor, or appearance of the water when the standards are necessary to ensure a supply of pure, wholesome, and potable water.

- (e) “Human consumption” means the use of water for drinking, bathing or showering, hand washing, oral hygiene, or cooking, including, but not limited to, preparing food and washing dishes.
- (f) “Maximum contaminant level” means the maximum permissible level of a contaminant in water.
- (g) “Person” means an individual, corporation, company, association, partnership, limited liability company, municipality, public utility, or other public body or institution.
- (h) “Public water system” means a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. A public water system includes the following:
- (1) Any collection, treatment, storage, and distribution facilities under control of the operator of the system that are used primarily in connection with the system.
 - (2) Any collection or pretreatment storage facilities not under the control of the operator that are used primarily in connection with the system.
 - (3) Any water system that treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption.
- (i) “Community water system” means a public water system that serves at least 15 service connections used by yearlong residents or regularly serves at least 25 yearlong residents of the area served by the system.
- (j) “Noncommunity water system” means a public water system that is not a community water system.
- (k) “Nontransient noncommunity water system” means a public water system that is not a community water system and that regularly serves at least 25 of the same persons over six months per year.
- (l) “Local health officer” means a local health officer appointed pursuant to Section 101000 or a local comprehensive health agency designated by the board of supervisors pursuant to Section 101275 to carry out the drinking water program.
- (m) “Significant rise in the bacterial count of water” means a rise in the bacterial count of water that the state board determines, by regulation, represents an immediate danger to the health of water users.
- (n) “State small water system” means a system for the provision of piped water to the public for human consumption that serves at least five, but not more than 14, service connections and does not regularly serve drinking water to more than an average of 25 individuals daily for more than 60 days out of the year.
- (o) “Transient noncommunity water system” means a noncommunity water system that does not regularly serve at least 25 of the same persons over six months per year.

- (p) “User” means a person using water for domestic purposes. User does not include a person processing, selling, or serving water or operating a public water system.
- (q) “Waterworks standards” means regulations adopted by the state board entitled “California Waterworks Standards” (Chapter 16 (commencing with Section 64551) of Division 4 of Title 22 of the California Code of Regulations).
- (r) “Local primacy agency” means a local health officer that has applied for and received primacy delegation pursuant to Section 116330.
- (s) “Service connection” means the point of connection between the customer’s piping or constructed conveyance, and the water system’s meter, service pipe, or constructed conveyance. A connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection in determining if the system is a public water system if any of the following apply:
- (1) The water is used exclusively for purposes other than residential uses, consisting of drinking, bathing, and cooking, or other similar uses.
 - (2) The state board determines that alternative water to achieve the equivalent level of public health protection provided by the applicable primary drinking water regulation is provided for residential or similar uses for drinking and cooking.
 - (3) The state board determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a passthrough entity, or the user to achieve the equivalent level of protection provided by the applicable primary drinking water regulations.
- (t) “Resident” means a person who physically occupies, whether by ownership, rental, lease, or other means, the same dwelling for at least 60 days of the year.
- (u) “Water treatment operator” means a person who has met the requirements for a specific water treatment operator grade pursuant to Section 106875.
- (v) “Water distribution operator” means a person who has met the requirements for a specific water distribution operator grade pursuant to Section 106875.
- (w) “Water treatment plant” means a group or assemblage of structures, equipment, and processes that treats, blends, or conditions the water supply of a public water system.
- (x) “Water distribution system” means any combination of pipes, tanks, pumps, and other physical features that deliver water from the source or water treatment plant to the means the deputy director appointed by the state board pursuant to subdivision (k) of Section 116271.consumer.
- (y) “Public health goal” means a goal established by the Office of Environmental Health Hazard Assessment pursuant to subdivision (c) of Section 116365.
- (z) “Small community water system” means a community water system that serves no more than 3,300 service connections or a yearlong population of no more than 10,000 persons.

(aa) “Disadvantaged community” means the entire service area of a community water system, or a community therein, in which the median household income is less than 80 percent of the statewide **annual median household income average** .

(ab) “State board” means the State Water Resources Control Board.

(ac) “Deputy director”

SEC 12 .

Section 116385 of the Health and Safety Code is amended to read:

116385 **(a)** Any person operating a public water system shall obtain and provide at that person’s expense an analysis of the water to the ~~department~~ **state board** in the form, covering those matters, and at intervals as the ~~department~~ **state board** by regulation may prescribe. The analysis shall be performed by a laboratory duly certified by the ~~department~~ **state board**

SEC 13.

Section 116530 of the Health and Safety Code is amended to read:

116530 **(a)** A public water system shall submit a technical report to the ~~department~~ **state board** as part of the permit application or when otherwise required by the ~~department~~ **state board** This report may include, but not be limited to, detailed plans and specifications, water quality information, and physical descriptions of the existing or proposed system, **information related to technical, managerial and financial capacity and sustainability; and information related to achieving the goals of CA Water Code Sec. 106.3, including affordability and accessibility.** ~~and financial assurance information.~~

(b) Each public water system shall submit to the state board reports in the form and format and at intervals required by the state board.

SEC 14.

Section 116540 of the Health and Safety Code is amended to read:

116540.

(a) Following completion of the investigation and satisfaction of the requirements of paragraphs (1) and (2), the state board shall issue or deny the permit. The state board may impose permit conditions, requirements for system improvements, technical, financial, or managerial requirements, and time schedules as it deems necessary to ensure a reliable and adequate supply of water at all times that is pure, wholesome, potable, and does not endanger the health of consumers.

(1) A public water system that was not in existence on January 1, 1998, shall not be granted a permit unless the public water system demonstrates to the state board that the water supplier possesses adequate financial, managerial, and technical capability to

ensure the delivery of pure, wholesome, and potable drinking water. This section shall also apply to any change of ownership of a public water system.

(2) A permit under this chapter shall not be issued to an association organized under Title 3 (commencing with Section 18000) of the Corporations Code. This section shall not apply to unincorporated associations that, as of December 31, 1990, are holders of a permit issued under this chapter.

(b) Notwithstanding Section 116330, a local primacy agency shall not issue a permit under this article without the concurrence of the state board.

(c) In considering whether to approve a proposed new public water system, the state board shall consider the sustainability of the proposed new public water system and its water supply in the reasonably foreseeable future, in view of global climate change, potential migration of groundwater contamination and other potential treatment needs, and other factors that can significantly erode a system's capacity.

(d) If the state board determines that it is feasible for the service area of the public water system addressed by an application under this article to be served by one or more permitted public water systems identified pursuant to paragraph (1) of subdivision (c) of Section 116527, the state board may deny the permit of a proposed new public water system, ~~if it determines, based on its assessment of the preliminary technical report submitted pursuant to Section 116527, the permit application, and other relevant, substantial evidence submitted, that it is reasonably foreseeable that the proposed new public water system will be unable to provide affordable, safe drinking water in the reasonably foreseeable future.~~

(e) An applicant may ~~petition the state board for reconsideration of a decision of action~~ **appeal decisions and actions** of the deputy director taken pursuant to this section **to the state board.**

SEC 15.

Section 116686 of the Health and Safety Code is amended to read:

116686 (a) (1) To provide an adequate supply of affordable, safe drinking water to ~~disadvantaged communities~~ **voluntary participants and public water systems that have demonstrated difficulty in maintaining technical, managerial, or financial capacity** and to prevent fraud, waste, and abuse, the state board may do any of the following, if sufficient funding is available:

(A) (i) Contract with, or provide a grant to, an administrator to provide administrative, technical, operational, **legal**, or managerial services, or any combination of those services, to a designated water system to assist the designated water system with the provision of an adequate supply of affordable, safe drinking water **which may include assisting with steps necessary to enable consolidation.**

(ii) To fulfill the requirements of this section, the state board may contract with more than one administrator, but only one administrator may be assigned to provide services to a given designated water system.

(iii) An administrator may provide ~~administrative and managerial~~ services to more than one designated water system.

(B) Order the designated water system to accept administrative, technical, operational, **legal**, or managerial services, including full management and control of all aspects of the designated water system, from an administrator selected by the state board.

(C) Order the designated water system to accept administrative, technical, operational, **legal**, or managerial services from an administrator appointed by the state board for full oversight of construction or development projects related to a consolidation or extension of service, including, but not limited to, accepting loans and grants issued by the state board and entering into contracts on behalf of the designated water system.

(2) In performing its duties pursuant to paragraph (1), the state board may use criteria from the policy handbook adopted pursuant to subdivision (g).

(b) **Unless the state board has already held a public meeting pursuant to subdivision (b) of Section 116682, Before the state board must do the following to determine** ~~determines~~ that a public water system or state small water system is a designated water system, ~~the state board shall do all of the following:~~

(1) Provide the public water system or state small water system with notice and an opportunity to show either of the following:

(A) That the public water system or state small water system has not consistently failed to provide an adequate supply of affordable, safe drinking water.

(B) That the public water system or state small water system has taken steps to timely address its failure to provide an adequate supply of affordable, safe drinking water.

(2) (A) Conduct a public meeting in a location as close as feasible to the affected community.

(B) The state board shall make reasonable efforts to provide a 30-day notice of the meeting to affected ratepayers, renters, and property owners.

(C) Representatives of the public water system or state small water system, affected ratepayers, renters, and property owners shall be provided an opportunity to present oral and written comments at the meeting.

(D) The meeting shall provide an opportunity for public comment.

(3) Provide an opportunity to submit comments by mail or electronically during the 30-day notice period and for at least one week after the public meeting described in paragraph (2).

(4) If the public water system is operated by a local educational agency, obtain the local educational agency's agreement, in writing, to the appointment of an administrator.

(c) The state board shall make financial assistance available to an administrator for a designated water system, as appropriate and to the extent that funding is available.

(d) The authority granted to an administrator by the state board pursuant to subdivision (a) may include, but shall not be limited to, the authority to do all of the following:

(1) Expend available moneys for capital infrastructure improvements that the designated water system needs to provide an adequate supply of affordable, safe drinking water **or to execute a consolidation ordered pursuant to Section 116682.**

(2) Set and collect user water rates and fees, subject to approval by the state board. The state board shall consider affordability when approving water rates and fees. The provisions of this section are subject to all applicable constitutional requirements, including Article XIII D of the California Constitution.

(3) Expend available moneys for operation and maintenance costs of the designated water system.

(4) Expend available moneys necessary to achieve consolidation, including conducting feasibility or planning studies, or addressing outstanding technical or legal issues.

(e) The state board shall work with the administrator of a designated water system and the communities served by that designated water system to develop, within the shortest practicable timeframe, adequate technical, managerial, and financial capacity to deliver an adequate supply of affordable, safe drinking water so that the services of the administrator are no longer necessary.

(f) A designated water system shall not be responsible for any costs associated with an administrator that are higher than the costs necessary to maintain the designated water system and provide an adequate supply of affordable, safe drinking water.

(g) Before ordering a designated water system to accept administrative, technical, operational, **legal**, or managerial services from an administrator pursuant to subdivision (a), the state board shall develop standards, terms, and procedures in a policy handbook adopted consistent with the process provided for in subdivision (a) of Section 116760.43 for all of the following:

(1) Ensuring compliance with subdivision (f).

(2) Providing opportunity for public comment on selection of an administrator and the services to be provided.

(3) Providing public access to budgets, **ownership and** financial information, and other documents and records related to the provision of water service to the designated water

system or affected residences and to the management of the designated water system by the administrator.

(4) Providing regular public meetings, notifications, opportunities for public comment, and other forms of engagement with customers of the designated water system for significant decisions or actions made on behalf of the designated water system, including, but not limited to, establishing operating budgets, altering water rates, adopting system policies, entering into long-term contracts or financing commitments, and developing system projects or plans.

(5) Formal requests to the state board to reverse or modify a decision of an administrator or to request substitution of an administrator.

(6) Ensuring an administrator acts in the best interests of the community served.

(7) Development and approval of a post-administrator drinking water service plan to ensure compliance with subdivision (e). Development of the plan shall include, but is not limited to, an evaluation of long-term public governance or community ownership options.

(h) Administrative and managerial contracts pursuant to this section shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and may be awarded on a noncompetitive bid basis as necessary to implement the purposes of this section.

(i) For purposes of this section, a local government, as defined in Article XIII C of the California Constitution, that sets water rates in accordance with Article XIII D of the California Constitution shall be deemed to be providing affordable water.

(j) This section does not apply to a charter city, charter county, or charter city and county.

(k) For purposes of this section, an administrator is authorized to act on behalf of an affected residence to the same extent, and in the same manner, as a designated water system with the consent of the affected residence.

(l) The Legislature finds and declares that the funding provided to a state small water system, affected residence, public water system, **public schools**, or administrator for purposes of this section serves a public purpose and does not constitute a gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution.

(m) For purposes of this section, the following terms have the following meanings:

(1) “Administrator” means a person whom the state board has determined is competent to perform the administrative, technical, operational, **legal**, or managerial services required for purposes of this section, pursuant to criteria set forth in the policy handbook adopted pursuant to subdivision (g). Notwithstanding any other law, a privately owned public utility may serve as an administrator for purposes of this section.

(2) “Designated water system” means a public water system or state small water system that **has been ordered to consolidate under Section 116682 or** serves a disadvantaged

community, as defined in Section 116681, and that the state board finds consistently fails to provide an adequate supply of affordable, safe drinking water.

(3) “Voluntary participant” means the owner of a domestic well, as defined in Section 116766(f), or state small water system, as defined in Section 116275(n), who has agreed to accept financial assistance pursuant to Chapter 4.6 for the provision of an adequate and affordable supply of safe drinking water.

(n) For the purposes of this Section, where an administrator is authorized to act on behalf of a designated public water system, it may also act on behalf of a voluntary participant.

(o) The Legislature finds and declares that the funding allowed to voluntary participants, public water systems, and administrators in connection with the purposes of this section, as described in this act, serves a public purpose and does not constitute a gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution.

SEC.16. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.